

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

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DISABILITY RIGHTS CENTER-NH,  
Plaintiff

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v.

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Civil No. 18-cv-160-LM

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HELEN HANKS, in her official capacity as  
Commissioner of the New Hampshire  
Department of Corrections, and MICHAEL A.  
ZENK, in his official capacity as Warden of  
the New Hampshire State Prison for Men  
Defendants

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**DEFENDANTS' OBJECTION TO PLAINTIFF'S  
MOTION FOR PRELIMINARY INJUNCTION**

NOW COME defendants, Helen Hanks and Michael Zenk, by and through counsel,  
the New Hampshire Office of the Attorney General, and hereby object to Plaintiff's  
Expedited Motion for Preliminary Injunction, stating in support as follows:

1. On or around March 6, 2018, the plaintiff filed an Expedited Motion for  
Preliminary Injunction, seeking access to DOC records, which it claims it requires to conduct  
an investigation of possible abuse or neglect.

2. "A plaintiff seeking a preliminary injunction must establish that he is likely to  
succeed on the merits, that he is likely to suffer irreparable harm in the absence of  
preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the  
public interest." *Winter v. NRDC, Inc.* 555 U.S. 7, 20 (2008).

3. Even assuming the plaintiff can meet its burden to establish the first, third, and  
fourth factors (which the defendants dispute), it cannot meet its burden to prove the second  
factor—that it is likely to suffer irreparable harm without a preliminary injunction. *Id.* The

defendants have already provided the plaintiff with all records identified as DOC records regarding this matter. Additionally, the defendants expect there will be few additional documents created by DOC in the future, and have agreed to produce such documents as they are available. *See Affidavit of Lindsey B. Courtney.*

4. For these reasons, the defendants submit that there is no conduct to enjoin and no need for a preliminary injunction. Accordingly, this Court should deny Plaintiff's Expedited Motion for Preliminary Injunction.

WHEREFORE, the defendants respectfully request that this Honorable Court:

- A. Deny Plaintiff's Expedited Motion for Preliminary Injunction; and
- B. Grant such further relief as may be deemed just and proper.

Respectfully submitted,

HELEN HANKS and MICHAEL A. ZENK

By their attorney,

GORDON J. MACDONALD  
ATTORNEY GENERAL

Date: March 23, 2018

/s/ Lindsey B. Courtney  
Lindsey B. Courtney  
NH Bar No. 20671  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was sent via the Court's ECF system to Andrew Milne, Esq. and Francesca Broderick, Esq., counsel for the plaintiff.

/s/ Lindsey B. Courtney  
Lindsey B. Courtney  
NH Bar #20671